Sexual Misconduct Policy
Introduction
Andrews University is committed to maintaining a respectful learning and living environment that is free from sexual misconduct. Sexual misconduct in any form is not consistent with this commitment, is prohibited and will not be tolerated in the Andrews community. All members of the Andrews University community share a responsibility for upholding this policy.

DEFINITIONS

Sexual Misconduct
Sexual misconduct is any sexual penetration, sexual contact, sexual exploitation or sexual harassment that occurs without the effective consent of all individuals involved.

Non-Consensual Sexual Penetration
Non-consensual sexual penetration is any sexual penetration (vaginal, anal or oral), however slight, with any object or part of the body, with another person without that person’s effective consent.

Non-Consensual Sexual Contact
Non-consensual sexual contact is any intentional sexual touching, however slight, with any object or part of the body, with another person without that person’s effective consent.

Effective Consent
- Effective consent is informed and freely and actively given.
- Effective consent cannot result from force, threat, intimidation, coercion or incapacitation.
- Effective consent cannot be given by minors, mentally disabled individuals, or individuals who are mentally or physically incapacitated (such as by alcohol or other drug use, etc.)—see next page.
- Consent can be communicated by word or action and must be mutually understandable.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent at one time does not imply consent to another time.
**Incapacitation**

When incapacitated, an individual lacks the physical and/or mental ability to make informed, rational judgments (e.g. to understand “who, what, when, where, why or how” of their sexual interactions) and thus cannot give effective consent to sexual activity.

Incapacitation may be temporary or permanent and result from mental disability as well as states including, but not limited to, sleep, unconsciousness, blackouts resulting in memory loss, etc. Incapacitation may also occur in persons who appear to be functional or coherent but still may not be able to make a rational decision or give effective consent.

The impact of consuming alcohol or drugs will vary from person to person. Evaluating incapacitation due to the use of substances requires an assessment of each individual. Warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, emotional volatility, etc.

Because incapacitation may be difficult to discern, students are strongly encouraged to err on the side of caution; when in doubt, assume the other person is incapacitated and therefore unable to give effective consent. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct and does not diminish one’s responsibility to obtain informed and freely-given consent.

**Sexual Exploitation**

Sexual exploitation is taking advantage of another person without effective consent. It includes, but is not limited to: causing the prostitution of another person; electronically recording, photographing or transmitting intimate or sexual utterances, acts, sounds or images of another person; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; conduct that intentionally exposes a person’s private body parts to others; or knowingly having a sexually transmitted infection (including HIV) and failing to inform a sexual partner prior to engaging in sexual activity.

**Sexual Harassment**

Like other forms of harassment that are based on an individual’s legally protected characteristic, sexual harassment is a form of discrimination, and it is strictly prohibited. Unlawful sexual harassment takes one of two forms: 1) quid pro quo harassment or 2) hostile environment harassment. Quid pro quo harassment typically involves an exchange of sexual favors for some benefit, and it most often occurs where there is a power differential (e.g., professor and student or boss and employee). Hostile environment harassment can occur when conduct is so severe and/or pervasive that it unreasonably interferes with an individual’s work or academic performance or creates an intimidating, hostile or offensive work or academic environment. Both kinds of harassment are prohibited. The following are types of behavior which may constitute sexual harassment:

- Unwelcome sexual advances or requests for sexual favors
- Unwelcome touching
- Showing/displaying sexually suggestive or objectifying pictures or words
- Sexually suggestive jokes

Other unwanted verbal, visual or physical conduct of a sexual nature may constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual’s employment, academic achievement or advancement
- Submission to or rejection of such conduct is used, threatened or insinuated as the basis for decisions affecting employment, wages, promotion, assigned duties or academic standing of an individual
- Such conduct has the purpose or effect of interfering with an individual’s ability to carry out his or her responsibilities
REMINDERS AND RESOURCES FOR VICTIMS OF SEXUAL MISCONDUCT

Medical Assistance
Victims of sexual misconduct are reminded of the importance of the preservation of evidence. Under some circumstances, victims should seek immediate medical attention before washing themselves or clothing. Medical assistance can be sought from any emergency room, such as the one located at Lakeland Medical Center, St. Joseph, Michigan. In addition to the collection of evidence, hospital staff is able to check for other potential injuries and respond to the potential of pregnancy and sexually transmitted diseases.

Confidential Counsel and Support
Victims of sexual misconduct are also encouraged to seek the assistance of trained counselors. The University’s Counseling & Testing Center (located in Bell Hall, 269-471-3470) or a community provider such as the Samaritan Counseling Center, 1850 Colfax, Benton Harbor, Michigan (269-926-6199), are good places to find this counseling. Counselors, pastors and chaplains have confidentiality obligations that prohibit them from reporting and activating established University processes; therefore, while these individuals are able to provide important support for victims, they are not the designated individuals to whom formal or informal reports should be given (see below).

INITIATING A COMPLAINT

The University encourages complainants and witnesses to report any violations of this policy to an appropriate University official. Reports are what give the University the opportunity to investigate and address any violations; they also provide the University with an opportunity to ensure that appropriate care and resources are provided for both the victim and the accused. At the same time, before a complainant reveals information (name of the accused, details, etc.) they should understand that only professional counselors, pastors and chaplains are able to retain confidentiality and all other faculty and staff are required to notify the designated University officials.

Designated University Officials
Provost Andrea Luxton is the Title IX Coordinator for Andrews University. You can file complaints of sexual misconduct with her office (269-471-3404) or with other designated University officials. The other designated University officials for complaints of sexual misconduct are:

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<th>Student Complaints Regarding Students</th>
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<tr>
<td>Title IX Deputy Coordinator for complaints regarding students, R. Deborah Weithers, associate dean for Student Life (269-471-6684)</td>
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<td>Vice president for Student Life (269-471-2679)</td>
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<td>Student Life deans (269-471-3215)</td>
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<td>Residence hall deans (269-471-3446, 269-471-3390 or 269-471-3360)</td>
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<td>Office of Campus Safety (269-471-3321)</td>
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<th>Student Reports Regarding Faculty or Staff</th>
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<td>Title IX Deputy Coordinator for student complaints regarding faculty or staff, Dennis Waite (269-208-2532)</td>
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<tr>
<td>Office of Human Resources (269-471-3302)</td>
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<td>Office of Campus Safety (269-471-3321)</td>
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Local Law Enforcement
Sexual misconduct may also be criminal. Complainants may wish to inform local law enforcement agencies; upon a complainant’s request, the University will assist in making the connection between a complainant and an appropriate law enforcement agency. In Berrien Springs, the local police department can be reached at 269-471-2813. In an emergency, call 911.
THE UNIVERSITY’S PROCESSES AND RESPONSE

The University will take seriously all good faith reports of alleged sexual misconduct. Because the University recognizes that sexual misconduct includes an attack on an individual’s dignity and self-determination rights, the University will attempt to let complainants select the process for addressing their allegations. In general, there are two main paths for addressing sexual misconduct: 1) an informal consultation pertaining to possible sexual misconduct and 2) a formal complaint of alleged sexual misconduct. The University reserves the right, however, to proceed in whatever manner it deems appropriate.

Informal Consultations
- If the complainant desires an informal consultation, he/she should consult with one of the designated University officials listed above for the purpose of exploring whether or not to submit a formal complaint.
- The complainant may be reluctant to identify the accused; however, this will limit the University’s ability to respond.
- The complainant may request the University to address the situation through various interim measures, informal meetings or conversations for the purpose of facilitating emotional wellbeing, separation, as well as to gain understanding and education. The University will seriously consider any such request.

Formal Complaint Process

1. Complaint
   - If a student desires to make a formal report of alleged sexual misconduct, the complaint should be submitted to a designated University official listed above.
   - The formal complaint should contain, at a minimum, a concise written statement of the alleged violation and a detailed statement of the facts supporting the allegation as well as the names of any witnesses.
   - The University official will review the formal complaint and meet separately with the complainant and the accused to receive their formal statements, review University processes and identify support systems.

2. Investigation
   - The director of Campus Safety is generally appointed to lead the investigation and is usually assisted by the Deputy Coordinator.
   - The investigator will meet with the complainant and the accused, as well as other witnesses, and review texts, emails, other communications and documents to gather facts.
   - The investigator will provide a written report and summary of the investigation to the appropriate Title IX Deputy Coordinator and the vice president for Student Life.
   - The vice president and Title IX Deputy Coordinator will review the evidence, which includes the investigative report and statements from the complainant and the accused, along with any other relevant information.

3. Hearing and Response
   - The vice president will facilitate a formal hearing with the Student Life Deans Council for both the complainant and the accused.
   - The Student Life Deans Council will deliberate using the “preponderance of evidence” standard to determine if the accused student is “more likely than not” found responsible, or not responsible, for a sexual misconduct violation.
   - If the accused is found responsible, the Student Life Deans Council will determine what type of disciplinary response is appropriate.

4. Duration
   - If a criminal complaint has been lodged with local law enforcement by the complainant, the Universi-
ty’s investigation may be delayed temporarily, as requested by the criminal investigators. The University, however, may not wait on the outcome of the criminal processes to begin its own investigation and to take any necessary interim protective measures.

» A typical investigation and response from the University may take up to 60 calendar days.

Regardless of whether an informal consultation takes place or a formal complaint is made, the University will attempt to do the following:

1. Be sensitive, supportive and respectful to all involved individuals.
2. Seek to maintain appropriate levels of confidentiality.
3. Provide both the complainant and the accused with notification of available resources. These resources may include counselors at the Counseling & Testing Center as well as community healthcare providers and campus chaplains.

CITIZENSHIP RESPONSES

Non-Consensual Sexual Penetration and Non-Consensual Sexual Contact
Any student found responsible for non-consensual sexual penetration or non-consensual sexual contact will likely receive a recommended citizenship response ranging from probation to dismissal, depending on the severity of the incident.*

Sexual Exploitation or Harassment
Any student found responsible for sexual exploitation or harassment will likely receive a recommended citizenship response ranging from warning to dismissal, depending on the severity of the incident.*

*The Student Life Deans Council reserves the right to broaden or lessen any range of recommended responses in the case of mitigating circumstances or egregiously offensive behavior as well as to take into account any previous or additional Code of Student Conduct violations.

Amnesty and Good Faith Reports
The University wants to facilitate a safe and caring campus climate for all good faith reports of sexual misconduct. In an effort to remove obstacles to reporting, victims or witnesses of sexual misconduct who voluntarily report their own lesser violation of the Code of Student Conduct, such as alcohol consumption, in connection with their report, will not typically receive disciplinary action (according to established voluntary referral processes as outlined in the “Substance Abuse” section, see the Student Handbook at andrews.edu/sl). To foster healing and growth, complainants may be asked to engage in educational opportunities.

ADDITIONAL INFORMATION AND RIGHTS

The Counseling & Testing Center and the Student Life office provide educational and prevention materials dealing with sexual misconduct. On an annual basis, during orientation, sexual misconduct education is provided to first-year students and periodically for the wider student body. Professional counseling and support services, as well as educational materials and information, are available for all students at the Counseling & Testing Center in Bell Hall. Academic support services are available at the Student Success Center in Nethery Hall.

- Both the complainant and the accused have the right to the same opportunities to present their account of events and to have a designated advocate to assist them, advise them and be present with them throughout the process. Advocates generally will be individuals from within the University’s faculty or staff, as long as they are not a relative of the parties involved.
The complainant and the accused may elect to seek counsel from an attorney at their own expense; however, in accordance with all University disciplinary processes, attorneys are not permitted to speak or otherwise participate in University proceedings.

Both the complainant and the accused have the right to be informed of the final outcome of the investigation of the complaint of sexual misconduct and any applicable appeals or disciplinary actions.

Both the complainant and the accused have the right to appeal the outcome of complaints of sexual misconduct and of any disciplinary actions.

If the complainant or alleged victim is deceased as a result of such offense, the next of kin of such victim shall be treated as the accuser or alleged victim to receive information regarding the outcome or disciplinary disposition.

Any complainant or victim of sexual misconduct may request accommodations in academic or work settings, changes in living situations, “no contact” orders or other support systems designed to help the student cope with the situation. Requests are not “guaranteed,” but the University will consider carefully any such requests.

Once a “no contact” order has been issued, the accused should not attempt to contact the complainant and the complainant should not attempt to contact the accused.

The University will also consider other appropriate interim measures to facilitate the emotional and physical wellbeing of the parties involved, the broader community and/or integrity of the investigative and resolution process.

Retaliation harassment from the accused (or the accused’s associates) to the complainant, such as name-calling, taunting or other threatening behavior, is unacceptable, should be reported and will be treated as a separate offense.

Being under the influence of alcohol or drugs is never a valid defense for the accused or the perpetrator of sexual misconduct.

REGISTERED SEX OFFENDER POLICY STATEMENT

Information regarding registered sex offenders is provided by the State of Michigan to the public as well as the campus community and can be reviewed at www.mipsor.state.mi.us.